

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

Case No. 22-20264-2

6 -v-

7 CHAZ DUANE SHIELDS,

8 Defendant.

9 PLEA HEARING

10 BEFORE THE HONORABLE ROBERT H. CLELAND

United States District Judge

11 Federal Building

526 Water Street

12 Port Huron, Michigan

August 23, 2022

13 APPEARANCES :

14 FOR THE PLAINTIFF: RYAN A. PARTICKA

U.S. Attorneys Office

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16 FOR THE DEFENDANT: JONATHAN EPSTEIN

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Exhibits:
(None Offered.)

CERTIFICATE OF REPORTER 39

1 Port Huron, Michigan

2 August 23, 2022

3 10:21 a.m.

4 (Call to Order of the Court; all parties present.)

5

6 * * *

7 THE CLERK: Calling case No. 22-20264, Defendant 2,
8 United States of America vs. Chaz Duane Shields. Counsel,
9 please state your appearances for the record.

10 MR. PARTICKA: Good morning, your Honor. Ryan
11 Particka on behalf of the United States.

12 MR. EPSTEIN: Your Honor, good morning. Jonathan
13 Epstein, standing in for Arthur Weiss on behalf of Chaz
14 Shields.

15 THE COURT: And this is a substitution this morning in
16 view, I understand, of Mr. Weiss's unavailability?

17 MR. EPSTEIN: Correct. Mr. Weiss has a funeral in the
18 family and is not able to attend today, but he does not wish to
19 delay or adjourn the proceedings. So Mr. Shields has consented
20 to my appearing on Mr. Weiss's behalf.

21 Is that correct?

22 THE DEFENDANT: Yes.

23 THE COURT: And you know of course, Mr. Shields, we
24 could wait for Mr. Weiss to become available. It would just
25 mean some additional delay, but that's another alternative. Do

1 you understand that, Mr. Shields?

2 THE DEFENDANT: Yes.

3 THE COURT: And you wish to proceed with Mr. Epstein?

4 THE DEFENDANT: Yes.

5 THE COURT: You've already had a thorough discussion
6 with Mr. Weiss, I would imagine, have you not?

7 THE DEFENDANT: No.

8 THE COURT: Well, I asked that in an odd way. You've
9 had a thorough discussion about the Rule 11 with your attorney?

10 THE DEFENDANT: I wasn't able to talk to my attorney
11 about the agreement yet, not with Mr. Weiss. I spoke with him,
12 yes. You said Mr. Weiss.

13 THE COURT: Are you satisfied with your discussion
14 with Mr. Epstein then?

15 THE DEFENDANT: Correct.

16 THE COURT: And do you think he answered your
17 questions and helped you to understand the agreement?

18 THE DEFENDANT: Yes.

19 THE COURT: And you're ready to proceed with Mr.
20 Epstein representing you then?

21 THE DEFENDANT: Yes.

22 MR. EPSTEIN: Judge, may I expand on that just
23 briefly?

24 THE COURT: Yes, certainly.

25 MR. EPSTEIN: Thank you. So I arrived at the

1 courthouse early this morning and I met with Mr. Shields in the
2 lockup. And we reviewed the Rule 11. The Rule 11 had
3 previously, previously been mailed to Mr. Shields by Mr. Weiss.
4 And so there has been an opportunity to read it and review it.
5 And then we reviewed it again this morning. And in fact, on
6 behalf of Mr. Shields, two changes have been made to the Rule
7 11. And those have -- and one has been initialed and the other
8 change I'm going to place on the record. So I just want the
9 Court to be apprised of that, as well.

10 THE COURT: All right. Mr. Particka, are you
11 satisfied with the detail provided here with respect to Mr.
12 Epstein's assistance in the case?

13 MR. PARTICKA: With one addition, your Honor. I would
14 note for the record that Mr. Epstein previously represented
15 another defendant in this case, Brittany Witherspoon, when the
16 matter was charged on complaint. Ms. Witherspoon has now been
17 charged via information as of yesterday. She has different
18 counsel and has had different counsel for approximately seven
19 months now.

20 The Government has no objection to Mr. Epstein
21 representing Mr. Shields for purposes of today, but I want the
22 record to be clear that Mr. Epstein does have prior knowledge
23 with respect to a different defendant, albeit prior knowledge
24 from a much earlier stage of the case.

25 MR. EPSTEIN: That is correct, your Honor. I did

1 represent Ms. Witherspoon several months ago on a complaint. I
2 have not represented her on the information.

3 I did review that with Mr. Shields this morning. And
4 Mr. Shields consents to me standing in for Mr. Weiss this
5 morning.

6 THE COURT: Is all of that correctly stated, Mr.
7 Shields?

8 THE DEFENDANT: Yes.

9 THE COURT: You're comfortable proceeding with Mr.
10 Epstein then, I take it?

11 THE DEFENDANT: Yes, for this procedure.

12 THE COURT: All right. Then in order to proceed with
13 the proposed change of plea, I'll have to have the defendant
14 sworn. So please raise your right hand as well as you can.

15 (Defendant sworn, 10:27 a.m.)

16 THE COURT: Mr. Shields, I'm going to need to question
17 you about your decision to enter a plea of guilty here, to
18 change your plea and about the case, about your involvement in
19 the case and so forth. You're under oath so it's important
20 that you remember to speak truthfully in answering my
21 questions. You do fundamentally know that, don't you?

22 THE DEFENDANT: Yes.

23 THE COURT: If you say something under oath that you
24 know is not true, you could be charged with committing perjury,
25 which is lying under oath. And if that were to happen, things

1 that you say here could be used against you in such a
2 prosecution. You understand that important angle of being
3 under oath?

4 THE DEFENDANT: Yes.

5 THE COURT: Please state your full name.

6 THE DEFENDANT: Chaz Shields.

7 THE COURT: And you have no middle name; is that
8 right?

9 THE DEFENDANT: Yeah, Duane.

10 THE COURT: All right.

11 MR. EPSTEIN: Speak up.

12 THE COURT: How old are you, Mr. Shields?

13 THE DEFENDANT: Thirty-one.

14 THE COURT: What kind of education do you have? In
15 other words, how far did you go in school?

16 THE DEFENDANT: To college.

17 THE COURT: You have some college. Do you have a
18 college degree or some college credits?

19 THE DEFENDANT: Yes.

20 THE COURT: A college degree? In what?

21 THE DEFENDANT: Credits.

22 THE COURT: College credits in what field of study?

23 THE DEFENDANT: Criminal justice.

24 THE COURT: So you must read and write English and
25 understand it fundamentally, do you?

1 THE DEFENDANT: Correct. Yes.

2 THE COURT: And you understand me so far as I'm
3 explaining these things --

4 THE DEFENDANT: Yes.

5 THE COURT: -- to you this morning, yes?

6 THE DEFENDANT: Yes.

7 THE COURT: If there is anything that I say that you
8 don't hear clearly or you need repeated or that you need
9 explained perhaps, you just need to ask me to do that, to go
10 over it again, repeat whatever it is that you had a problem
11 hearing, and ask me to clarify things for you. You understand
12 that I want you to speak up if you are having a problem, in
13 other words, right?

14 THE DEFENDANT: Yes.

15 THE COURT: As you stand here this morning, are you
16 feeling the negative effect or the intoxicating effect, Mr.
17 Shields, of any alcohol, drugs, including prescription drugs or
18 anything similar to that, that could affect your thinking?

19 THE DEFENDANT: No.

20 THE COURT: You believe you're thinking clearly and
21 adequately this morning, do you?

22 THE DEFENDANT: Yes.

23 THE COURT: You're not being treated by any medical or
24 mental health professionals currently, are you?

25 THE DEFENDANT: No.

1 THE COURT: So you're not taking any prescribed
2 medication?

3 THE DEFENDANT: No.

4 THE COURT: And you feel totally awake and alert and
5 clear-headed this morning, do you?

6 THE DEFENDANT: Yes.

7 THE COURT: Mr. Epstein, do you agree?

8 MR. EPSTEIN: I do.

9 THE COURT: I find the defendant is thinking clearly
10 and not intoxicated and ready to proceed based on what's been
11 presented here in court this morning.

12 Now, you have the right to have an attorney represent
13 you, Mr. Shields, during all stages of the proceedings. The
14 Court appoints an attorney for you to serve at public expense,
15 as here, if you're not able to afford an attorney of your own
16 choosing. You do understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: And you've discussed this case completely
19 with one or, one or the other or both of the attorneys that are
20 representing you; is that correct?

21 THE DEFENDANT: Yes.

22 THE COURT: Most recently, you've discussed the Rule
23 11 agreement in its final form with Mr. Epstein this morning,
24 right?

25 THE DEFENDANT: Yes.

1 THE COURT: Are you confident that you understand the
2 advice you've received from attorneys?

3 THE DEFENDANT: Yes.

4 THE COURT: Are you confident you've listened
5 carefully to the advice that you've received and thought about
6 it in making a decision to plead guilty?

7 THE DEFENDANT: Yes.

8 THE COURT: Are you confident that the decision to
9 plead guilty is your own decision and not just what an attorney
10 has, perhaps has recommended to you?

11 THE DEFENDANT: Yes.

12 THE COURT: So this is something that you will call
13 your own decision. You own this decision, so to speak. Is
14 that a correct statement?

15 THE DEFENDANT: Correct.

16 THE COURT: If I accept your guilty plea, you will be
17 convicted of the crime to which you intend to admit.

18 And where is the indictment?

19 (Brief pause.)

20 THE COURT: We may have to rewind the proceedings here
21 to a certain extent. There is a Second Superseding Information
22 that I have just had printed. Do I understand there is also a
23 third superseding or is this the most recent?

24 MR. PARTICKA: This is the most recent, your Honor,
25 the Second Superseding.

1 THE COURT: All right.

2 MR. PARTICKA: There are no changes to the document in
3 any respect as to Mr. Shields. The only addition is the
4 addition of defendant number 3, Brittany Witherspoon to Count 1
5 of the indictment -- or the information. Apologies, your
6 Honor.

7 THE COURT: The defendant intends to change his plea
8 as to Count 1 and Count 2 of the Second Superseding
9 Information. And that would be --

10 MR. EPSTEIN: Your Honor, do you want the parties to
11 write "second superseding" in writing and initial?

12 THE COURT: That's probably a good idea for clarity's
13 stake.

14 So Count 1 is conspiracy to commit wire fraud. So is
15 this the -- the original apparently is in my hand. It needs to
16 be initialed; is that right?

17 THE CLERK: Yes, Judge.

18 THE COURT: Counsel, could you come and take care of
19 initialling your assent to the second superseding.

20 (Brief pause.)

21 THE COURT: All right. The phrase "second
22 superseding" has been inserted in what appears to be the
23 appropriate place.

24 So back to you, Mr. Shields, you apparently intend to
25 change your plea as to Count 1, conspiracy to commit wire

1 fraud, and Count 2, conspiracy to commit mail fraud. Is that a
2 correct statement?

3 THE DEFENDANT: Yes.

4 THE COURT: If I accept your guilty plea, you will be
5 convicted of the crimes to which you are pleading guilty today,
6 and you will not have a trial. Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: There are constitutional rights you would
9 have at a trial, but you are giving them up in this case by
10 pleading guilty. And I need to make sure that you understand
11 the rights that you are giving up.

12 First, you're giving up the right to continue with a
13 plea of not guilty and to have a trial by jury with a lawyer
14 assisting you. Do you understand you're giving that up?

15 THE DEFENDANT: Yes.

16 THE COURT: You're giving up the right to be presumed
17 innocent, that is the right to have the Government prove that
18 you are guilty beyond a reasonable doubt based upon the
19 evidence in the case. Do you understand you're giving that up,
20 Mr. Shields?

21 THE DEFENDANT: Yes.

22 THE COURT: Third, you're giving up the right to watch
23 and listen as the witnesses against you testify and the right
24 to confront those witnesses, that is, to question them or to
25 challenge their testimony.

1 THE DEFENDANT: Yes.

2 THE COURT: You understand that. And you also
3 understand you're giving up the right to have the court order
4 any additional witnesses that you may have in your own defense
5 to come into court and give testimony if you wish to present a
6 case. Do you understand you're giving that up as well?

7 THE DEFENDANT: Yes.

8 THE COURT: Fourth and finally, you're giving up the
9 right to watch and listen -- sorry. That's the same as number
10 three.

11 Number four, you are giving up the right to choose
12 whether to testify or to remain silent during trial. If you
13 wish to testify, you may. If you do not wish to testify at
14 trial, you cannot be required to do so. You understand you're
15 giving up that right by entering a plea of guilty on this Rule
16 11 plea agreement, Mr. Shields?

17 THE DEFENDANT: Yes.

18 THE COURT: And elsewhere within the document, within
19 the Rule 11 agreement, you're giving up two procedural rights,
20 one of which is to appeal your conviction based on this plea.
21 And secondly, you're giving up the right to appeal your
22 sentence as long as I sentence you in accords with the way your
23 sentence has been estimated or recommended in the Rule 11
24 agreement.

25 So what that means is if I accept your plea of guilty,

1 Mr. Shields, your guilty plea and the conviction will be
2 permanent, not suitable to be challenged. You're giving up the
3 right to challenge in it virtually any way possible. And
4 you're giving up the right to challenge the actual sentence
5 that you receive, as long as it is a predictable sentence, that
6 is within the terms set forth, and yet to be summarized here on
7 the record by the Assistant U.S. Attorney.

8 So no appeal of the conviction, no appeal of the
9 sentence. You're giving things up by entering a plea of guilty
10 per your agreement. You understand that?

11 THE DEFENDANT: Yes.

12 THE COURT: No questions?

13 THE DEFENDANT: No.

14 THE COURT: All right, sir. There is one other issue
15 that you're giving up. Generally speaking, a person has to be
16 charged by grand jury indictment to face a felony charge in
17 federal court. There is one -- there is a way of giving up the
18 right to be charged by grand jury indictment, and that is to
19 agree to be charged through an information. And that is what
20 we have here. You have given up your right to grand jury
21 indictment. You are agreeing to be charged with Count 1 and
22 Count 2 in the Second Superseding Information. You understand
23 you're giving that up, sir?

24 THE DEFENDANT: Yes.

25 THE COURT: And you've agreed and signed off on that

1 in an earlier documentation; is that correct, sir?

2 THE DEFENDANT: Correct.

3 THE COURT: The crime of conspiracy, which applies to
4 Count 1 and Count 2, has certain things that are required to be
5 true in order for a person to be guilty.

6 Fundamentally, if a person knows that there is a
7 conspiracy in existence or about to be formed, and that person
8 joins the conspiracy by agreeing with at least one other person
9 to attempt, or attempt and succeed in committing a federal
10 felony, and he does so knowingly, then that person is guilty of
11 conspiracy, whether or not the crime intended to be committed
12 was ever successfully completed or not. Do you understand the
13 basics there, Mr. Shields?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: And as to wire fraud, Count 1, the
16 underlying crime which the conspiracy was aimed would require
17 there to be a scheme or pretense of some sort to obtain money
18 or property to which the conspirators are not entitled by the
19 means of false pretenses or statements which were capable of
20 deceiving a person who received such information and statements
21 and promises.

22 The means of telecommunication known as wire
23 communication, which would include Internet capability, radio,
24 television, telephone, and similar forms of communication would
25 have to be in some fashion in order to make the wire fraud

1 federal, that is, in and affecting interstate commerce. Do you
2 understand those things, Mr. Shields?

3 THE DEFENDANT: Yes.

4 THE COURT: The charge of mail fraud is the same. The
5 concept of conspiracy is the same. A person who engages in a
6 conspiracy or forms a conspiracy or agrees to join a conspiracy
7 aimed at the commission of mail fraud is guilty of conspiracy
8 to commit mail fraud.

9 The substantive underlying offense of mail fraud as an
10 object of the conspiracy in Count 2 would require the existence
11 or the creation of a scheme to defraud or obtain money or
12 property by deceiving false or fraudulent pretenses, and the
13 use of the mails to make this a federal offense in and
14 affecting interstate commerce. You understand all of those
15 things --

16 THE DEFENDANT: Yes.

17 THE COURT: -- that go into making up mail fraud?

18 And you understand that the people involved in the
19 conspiracy on Count 1 and Count 2 would have to be acting with
20 the intent to defraud, not just accidentally, but intentionally
21 trying to deceive and to defraud and to obtain a financial
22 advantage. Do you understand those things about Count 1 and
23 Count 2, Mr. Shields?

24 THE DEFENDANT: Yes.

25 THE COURT: For the Government, is that an adequate

1 description of the elements of each offense, Mr. Particka?

2 MR. PARTICKA: It is, your Honor.

3 THE COURT: Mr. Shields, the maximum penalty for each
4 of these offenses is as many as 20 years of imprisonment, Count
5 1, 20 years of imprisonment, and Count 2, for a total 40 years.

6 A fine of as much as \$250,000 could be imposed on each
7 offense, or if the loss amount in either achieved or intended
8 is greater than \$250,000 -- now, I'm not saying that correctly.
9 It could be twice the loss amount, assuming that the loss
10 amount doubled would be greater than \$250,000. So the, so the
11 fine amount can be, as we say, \$250,000 or twice the loss. Do
12 you understand that, sir?

13 THE DEFENDANT: Yes.

14 THE COURT: If I impose a prison term, I would also
15 impose a follow-on status of supervised release. You would be
16 subject to terms and conditions, behavior and travel
17 restrictions. And of course you would be required to obey the
18 law and perform properly in that regard during supervised
19 release.

20 If you stepped out of line on supervised release and
21 committed a new offense, for example, lied about your
22 circumstances or failed to appear when told by the probation
23 officer, you could be violated from the supervised release and
24 you could be sentenced to serve additional time, even though
25 you finished your original sentence. Do you understand that,

1 Mr. Shields?

2 THE DEFENDANT: Yes.

3 THE COURT: And of course, I could order you to pay
4 restitution to any victim of your conduct. Do you understand
5 that as well?

6 THE DEFENDANT: Yes.

7 THE COURT: I'm also required to alert you that if you
8 were not a citizen of the United States, adverse immigration
9 consequences could follow from a plea of guilty. You
10 understand that idea legally Mr. Shields?

11 THE DEFENDANT: Yes.

12 THE COURT: Any sentence you receive is going to be
13 governed by federal law, including the Federal Sentencing
14 Guidelines. Under the law, Mr. Shields, I must make the final
15 decision concerning your sentence. I will be guided partially
16 by your sentencing guidelines score which combines the
17 attributes of this offense conduct with whatever criminal
18 convictions there may be in your past. Putting your past
19 together with your present circumstances will result in
20 calculating a range of sentences from a low end to a high end,
21 not to exceed 40 years, of course, in any event. But somewhere
22 within that range, there may be a sentence that I find
23 appropriate for you, or I might sentence you to a term less
24 than the minimum or more than the maximum of the range of
25 sentences that are possible.

1 A Government recommendation for me to limit your
2 sentence, I will consider if it's presented. I will consider
3 your attorney's position with respect to the imposition of
4 sentence as well. But I will make my own decision as to the
5 sentencing guideline calculations, and as to the suitability of
6 a guideline or a non-guideline sentence. Those are all things
7 that are within my discretion. Do you understand that, Mr.
8 Shields?

9 THE DEFENDANT: Yes.

10 THE COURT: Your plea of guilty is a result of
11 discussions and negotiations, as we've heard. I have not been
12 part of those discussions. Your attorneys have discussed with
13 the Government counsel and arranged this guilty plea. I have
14 not predicted a result. I have not guaranteed anything. I
15 have not approved anything in advance. Your arrangements, in
16 other words, are with the Government, not with the Court. Do
17 you understand, Mr. Shields?

18 THE DEFENDANT: Yes.

19 THE COURT: Mr. Particka, would you please summarize
20 the significant terms of the plea agreement, especially
21 anything that I may have omitted?

22 MR. PARTICKA: Certainly, your Honor.

23 The first significant agreement between the parties is
24 that if the Court accepts this agreement and imposes sentence
25 consistent with its terms, we will not bring any additional

1 charges against Mr. Shields.

2 Second, as to the guidelines, the parties are agreeing
3 that the loss foreseeable by Mr. Shields was between one and a
4 half and 3 and a half million dollars for a guideline increase
5 of 16 levels. That the offense involved ten or more victims
6 for a guidelines increase of two levels. That the offense
7 involved sophisticated means for an increase of another two
8 levels. That the offense involved the unauthorized transfer or
9 use of a means of identification unlawfully to obtain another
10 means of identification for a further increase of two levels.

11 And there is, I believe, a checkmark on the original
12 as to the final guideline provision. The Government believes
13 that the defendant was a manager or supervisor in criminal
14 activity that involved five or more participants or was
15 otherwise extensive. The defendant disputes the factual
16 applicability of that enhancement. So as of today we are
17 agreeing to disagree with respect to that three-level increase.
18 The Government will be seeking it to apply when we discuss this
19 with the Probation Department. Defense counsel can certainly
20 contest it. And I believe their official position is reserving
21 an objection as to this enhancement.

22 MR. EPSTEIN: That is correct, your Honor.

23 MR. PARTICKA: There are additional factual
24 stipulations for sentencing purposes, specifically that Mr.
25 Shields obtained a PPP loan, that's Paycheck Protection Program

1 loan, in the name of a co-defendant and his brother, that's the
2 same person, his brother, Cortney Shields, funded by Benworth
3 Capital. And also, there are factual stipulations in here with
4 respect to that manager or supervisor role. I believe the
5 nature of the defense objection is as to the number of people
6 involved in the scheme, not necessarily Mr. Shields's role in
7 the scheme.

8 The parties also stipulate that the portion of the
9 overall UI fraud conspiracy's loss that was reasonably
10 foreseeable to Mr. Shields was approximately \$1.9 million, and
11 that the overall Postal indemnity fraud conspiracy's loss that
12 was foreseeable to the defendant was \$198,000.

13 If the Court decides not to accept the parties'
14 recommendations as to the guidelines, this is not a basis for
15 Mr. Shields to withdraw. Likewise, if the Court decides to
16 sentence Mr. Shields not consistent with this agreement, that
17 is not a basis for him to withdraw.

18 There is no agreement as to fines. However, there is
19 an agreement as to restitution, that is on page 16 of the
20 agreement. The parties have agreed to the victims and the full
21 amounts of restitution. Those victims include the states of
22 California, Michigan, Nevada, and Louisiana, the United States
23 Postal Service, and the Small Business Administration for
24 payment to Benworth Capital. He agrees that any restitution
25 ordered is due and payable immediately.

1 There is an agreement as to forfeiture which includes
2 all property, real or personal, that constitutes proceeds
3 obtained or derived from the defendant's violations of the two
4 counts charged. Four specific items are noted on page 18 of
5 the agreement, approximately \$1,500 in U.S. currency and three
6 items of jewelry. And the defendant agrees to assist with the
7 forfeiture process, including the entry of any orders necessary
8 to effectuate that forfeiture.

9 There is an appeal waiver, as the Court noted. In
10 addition, there's a collateral review waiver that excludes any
11 additional attacks except for ineffective assistance of counsel
12 or prosecutorial misconduct, provided those are brought via the
13 proper channels.

14 If he's allowed to withdraw his guilty plea or the
15 conviction is vacated for any reason, the Government may
16 reinstate these charges against him, and he's waiving any
17 argument that the charges -- the charges were not timely
18 brought.

19 If his agreement is withdrawn, he's waiving his rules
20 -- rights under Federal Rule of Evidence 410, and we may use
21 any statements he makes today against him in any future
22 proceeding.

23 And that's the entire agreement between the parties,
24 your Honor.

25 THE COURT: Mr. Epstein, you've gone over that with

1 your client?

2 MR. EPSTEIN: Yes. I would like to comment on one,
3 one thing that U.S. Attorney mentioned, and that is to the
4 factual basis underlying the manager/supervisor enhancement, we
5 wish to review those facts further and see how the Probation
6 Department characterizes the facts, so that is why we reserve
7 objection on, on 3B1.1(b). So we wish to see how the Probation
8 Department characterizes the facts of this case as well. So
9 we're not, we're not completely in agreement with what Mr.
10 Particka just characterized.

11 Thank you.

12 THE COURT: All right. Does that all sound correct,
13 Mr. Shields, from your perspective?

14 THE DEFENDANT: Yes.

15 THE COURT: And again, you've gone over this with one
16 or both of your attorneys at various times, including today; is
17 that right?

18 THE DEFENDANT: Yes, one time today.

19 THE COURT: And you understand that part of what
20 you're giving up is the concept of collateral attack, that's a
21 habeas corpus claim; that you're agreeing not to attack your
22 conviction either by appeal or by habeas corpus, except as may
23 be done as, if it can be properly alleged that you received
24 ineffective assistance of counsel, or that there was
25 prosecutorial misconduct in the investigation and prosecution

1 of your case. With those two exceptions, you're agreeing that
2 there shall be no collateral attack mounted after I receive and
3 approve your change of plea. Understood?

4 THE DEFENDANT: Yes.

5 THE COURT: Has anyone tried to force you or threaten
6 you in any way to get you to plead guilty?

7 THE DEFENDANT: No.

8 THE COURT: Has anyone done anything you think is
9 improper, illegal, or unethical in order to get you to plead
10 guilty, sir?

11 THE DEFENDANT: No.

12 THE COURT: And except for the statements that are on
13 the record, the terms of the agreement, the various terms and
14 conditions that you've already pre-agreed to, are there any
15 other handshake deals, anything, for example, that I have not
16 heard about that are motivating your decision to plead guilty
17 here?

18 THE DEFENDANT: No.

19 THE COURT: You think I've heard a fair rendition of
20 the actual agreement between you and the Government; is that
21 right?

22 THE DEFENDANT: Yes.

23 THE COURT: And, Mr. Epstein, to the extent that there
24 is a Second Superseding Information and that it may, by a
25 strict application of the rules, require an arraignment, I

1 would suggest that the complexity of the discussion today
2 supersedes the need for any formal arraignment and that it can
3 be properly waived on the record. Do you agree?

4 MR. EPSTEIN: I agree. We waive that formal
5 arraignment.

6 THE COURT: Noted.

7 MR. EPSTEIN: Is that correct, Mr. Shields?

8 THE DEFENDANT: Yes.

9 THE COURT: And approved.

10 So you are satisfied with your attorneys, the
11 communication, the advice you've received, Mr. Shields. And I
12 would ask if your attorney has looked into the -- attorneys
13 have looked into the case and done the things that an attorney
14 ought to do to properly prepare you for this decision. Would
15 you agree with that statement?

16 THE DEFENDANT: Yes.

17 THE COURT: To the charge contained in Count 1, which
18 is wire fraud, Mr. Shields, what is your plea this morning?

19 THE DEFENDANT: Guilty.

20 THE COURT: And that would be conspiracy to commit
21 wire fraud.

22 THE DEFENDANT: Guilty.

23 THE COURT: And Count 2, the charge is conspiracy to
24 commit mail fraud. And what is your plea this morning, sir?

25 THE DEFENDANT: Guilty.

1 THE COURT: I'm going from the factual statement that
2 is in your agreed-upon Rule 11 term sheet. In Count 1, you are
3 saying by agreeing with these factual statements that beginning
4 at least as early as May of 2020, continuing through July of
5 2021, in the Eastern District of Michigan, that you, along with
6 Daeshawn Posey, Cortney Shields, Brittany Witherspoon,
7 knowingly and intentionally combined, conspired and agreed with
8 each other -- is this correct so far?

9 THE DEFENDANT: Yes.

10 THE COURT: And that you may have agreed with others
11 as well, known and unknown to the Government, to commit wire
12 fraud, that is, that you had the intent to defraud. Did you?
13 Had the intent to defraud, Mr. Shields?

14 THE DEFENDANT: Oh, yes. Yes.

15 THE COURT: And that you knowingly and intentionally
16 devised and tried, at least tried to execute a scheme to
17 defraud and to obtain money and property by means of false and
18 fraudulent statements. Is that true?

19 THE DEFENDANT: Yes.

20 THE COURT: You're telling me the purpose of the
21 scheme and artifice to defraud was for the defendants to obtain
22 unlawfully state and federal unemployment insurance benefits.
23 Is that true?

24 THE DEFENDANT: Yes.

25 THE COURT: In executing the scheme, the defendants

1 caused the transmission of writing signals and sounds by means
2 of wire communication. Is that true?

3 THE DEFENDANT: Yes.

4 THE COURT: More specifically, your statement says
5 that you conspired to submit more than 240 fraudulent insurance
6 claims to over 20 states and territories through the use of two
7 Internet protocol addresses. Is that true?

8 THE DEFENDANT: I don't, I don't know exactly if
9 that's true or not. I didn't look at the numbers to see if
10 it's true or not.

11 THE COURT: Well, let's take the number out. That you
12 submitted, you're agreeing that you submitted a lot of
13 fraudulent UI claims, that's un-insurance -- unemployment
14 insurance claims, to more than 40 states and territories. Is
15 that much true?

16 THE DEFENDANT: To more than 40 states? No, that's
17 not true.

18 THE COURT: Twenty states. Twenty.

19 THE DEFENDANT: No, twenty states. I can't -- yes.
20 Yes, it's true.

21 MR. EPSTEIN: The whole scheme, not just you.

22 THE DEFENDANT: I got you. Yes.

23 THE COURT: Oh, yes. This will be the actions of
24 everyone, not just the actions of you personally.

25 THE DEFENDANT: Okay. Yes. I understand, yes.

1 THE COURT: Because everybody, in a conspiracy, Mr.
2 Shields, all of the conspirators are responsible for the acts
3 of all of the other conspirators in addition to his own acts.
4 Understood?

5 THE DEFENDANT: Yes.

6 MR. PARTICKA: And, your Honor, if I may make one
7 additional notation for Mr. Shields's benefit, that's the
8 number of submitted claims, not the number of fully funded
9 claims. So if Mr. Shields is questioning the number of states
10 that they got money from, that is not all 20. There were
11 claims submitted to more than 20 states, however.

12 THE COURT: So some were --

13 MR. PARTICKA: Unsuccessful.

14 THE COURT: -- caught, caught or rejected?

15 MR. PARTICKA: That is correct, your Honor.

16 THE COURT: Understood, Mr. Shields?

17 MR. EPSTEIN: The Judge is asking if you understand.

18 THE DEFENDANT: Yes.

19 THE COURT: Okay. Now, you're telling me in your Rule
20 11 statement as well that you used, sometimes you used personal
21 names, actual names with identifying information, but other
22 times, you used the names -- you collectively, the
23 conspiracy -- used the names and personal identification
24 information of more than ten other individuals who were unaware
25 that their identification information was being used to submit

1 claims. Is that a correct statement, sir?

2 THE DEFENDANT: Yes.

3 THE COURT: Claims were processed and funds were
4 either loaded onto debit cards and mailed by the U.S. Postal
5 Service to addresses controlled by the defendants. True
6 statement?

7 THE DEFENDANT: Yes.

8 THE COURT: And you acted, the conspirators acted
9 within the Eastern District of Michigan from time to time; is
10 that correct, Mr. Shields?

11 THE DEFENDANT: Yes.

12 THE COURT: And some of these proceeds of false claims
13 were deposited directly into bank accounts controlled by the
14 conspirators; is that correct?

15 THE DEFENDANT: Yes.

16 THE COURT: And that money was accessed by using debit
17 cards, including Bank of America, JP Morgan Chase debit cards;
18 is that correct, sir?

19 THE DEFENDANT: Yes.

20 THE COURT: And cash withdrawals would be made from
21 automated teller machines throughout Metro Detroit as well as
22 in California. True?

23 THE DEFENDANT: Yes.

24 THE COURT: And each of these withdrawals, you
25 understand, caused a separate interstate transmission of

1 information, via wire. Do you understand that to be the case,
2 sir?

3 THE DEFENDANT: Yes.

4 THE COURT: And that these withdrawals were made with
5 the intent to defraud and the knowledge of the fact that it was
6 being done impermissibly, that is, that you were not entitled
7 to anything having to do with these un-insurance --
8 unemployment insurance funds. You understand that to be the
9 case, sir?

10 THE DEFENDANT: Yes.

11 THE COURT: And further, that you fraudulently
12 obtained, you, the conspiracy, as a total, or as a whole
13 obtained a total of more than \$2,200,000 in unemployment
14 benefits, mainly from Michigan and California; correct
15 statement, sir?

16 THE DEFENDANT: You said -- can you repeat that? Can
17 you repeat that question?

18 THE COURT: As a result of the scheme, you're
19 submitting to me in your Rule 11 agreement on page 6 of 26,
20 that you, meaning the conspiracy, fraudulently obtained a total
21 of more than \$2,200,000 in benefits, mainly from Michigan and
22 California.

23 THE DEFENDANT: Yes. That's covering everyone,
24 correct?

25 THE COURT: That covers all of the defendants, all of

1 your co-conspirators.

2 THE DEFENDANT: Yes.

3 THE COURT: Everybody's acts, not your -- it would
4 include some personal acts by you, I would imagine.

5 THE DEFENDANT: Yes, absolutely.

6 THE COURT: But you didn't -- almost never in a
7 conspiracy, Mr. Shields, does every co-conspirator do
8 everything or you know, join, join hands and commit a fraud and
9 then do the same thing with every other co-conspirator.

10 THE DEFENDANT: Understood.

11 THE COURT: There are a thousand and one different
12 ways for a conspiracy to achieve the goals of the conspiracy.
13 As long as it is done with the intent to defraud, knowingly and
14 intentionally, then that is an act of the conspiracy.
15 Understood?

16 THE DEFENDANT: Yes.

17 THE COURT: All right. In Count 2, you're telling me
18 that from October of 2019 and continuing through December of
19 2019, you, you and Posey knowingly and intentionally agreed
20 with each other, as well as other people to commit mail fraud,
21 that is specifically that you, with the intent to defraud,
22 knowingly devised and executed a scheme using false and
23 fraudulent pretenses, the purpose of which was for you to
24 obtain money from the Postal Service, making use of the mail,
25 specifically conspiring to submit more than a thousand in false

1 indemnity insurance claims in the name of more than 40
2 individuals by mailing a number of packages that you knew would
3 be undeliverable, and then filing a fraudulent domestic
4 insurance claim attesting to the false statement that the
5 package contained an item of significant value. Did you do
6 those things, sir?

7 THE DEFENDANT: Not to that, not to that --

8 MR. EPSTEIN: Judge, there is a change on page 7. I
9 would think the Court would have that.

10 THE COURT: I do have that, and I omitted that line.

11 MR. EPSTEIN: Thank you.

12 THE COURT: And I was careful to omit that. The
13 essence of it is that Shields and Posey, as well as others,
14 used self-service kiosks to mail a number of packages.

15 That's a true statement, is it, Mr. Shields?

16 THE DEFENDANT: Yes.

17 THE COURT: For each of the packages that were
18 undeliverable, you submitted a false insurance claim attesting
19 that, falsely, that the package contained an item of
20 significant value. True?

21 THE DEFENDANT: Yes.

22 THE COURT: But in reality, the packages contained
23 nothing of any real value. True statement, sir?

24 THE DEFENDANT: Yes.

25 THE COURT: And in support of the claims, you

1 repeatedly uploaded the same fraudulent proof of value
2 photograph to the Postal Service insurance claim website. True
3 statement, sir?

4 THE DEFENDANT: Yes.

5 THE COURT: And for each successful claim, the Post
6 Office mailed you a check. True statement?

7 THE DEFENDANT: Yes.

8 THE COURT: You two, you conspirators, mailed the
9 packages, filed the claims and subsequently cashed the benefit
10 check with the intent to defraud. True statement?

11 THE DEFENDANT: Yes.

12 THE COURT: And you acted also with knowledge of the
13 fact that you were not entitled to the indemnity insurance
14 payments, true?

15 THE DEFENDANT: Yes.

16 THE COURT: As a result of this, you fraudulently
17 obtained more than \$200,000 in indemnity insurance payments.
18 True statement? And again, the "you" means the conspirators as
19 a whole.

20 THE DEFENDANT: I understand. I don't believe it was
21 over two, but yes. Yes.

22 THE COURT: All right. And at least some of your
23 activities involved action in the Eastern District of Michigan,
24 Wayne County and surrounding areas?

25 THE DEFENDANT: Yes.

1 THE COURT: Mr. Particka, do we have a sufficient
2 factual basis or do you need to supplement something?

3 MR. PARTICKA: The Government is satisfied as to the
4 factual basis, your Honor.

5 THE COURT: Mr. Epstein, are you satisfied as to the
6 cautions and --

7 MR. EPSTEIN: I'm satisfied. Thank you.

8 THE COURT: All right. Mr. Shields your proposed
9 guilty plea to Count 1 and Count 2 is supported by facts that
10 you've acknowledged. I believe you know what you're doing and
11 you're acting competently and voluntarily in giving up your
12 rights. I am prepared to accept this agreement. Are you sure
13 you want me to accept it and determine that you are guilty of
14 these offenses, Mr. Shields?

15 THE DEFENDANT: Yes.

16 THE COURT: And I do, I acknowledge, as the defendant
17 has here earlier on the record, that there may be some further
18 discussion and settling of guidelines scoring issues that are
19 not currently settled. It's not an unusual situation. The
20 defendant should, however, acknowledge that he knows, once
21 again, that it's my decision what the guideline range looks
22 like, how it is correctly calculated. You're free to provide
23 input, the attorneys are invited to provide input, but the
24 judge makes the final decision.

25 You do understand, Mr. Shields?

1 THE DEFENDANT: Yes.

2 THE COURT: All right. The proposed plea is being
3 supported by facts and entered knowingly and intelligently and
4 voluntarily and competently. The plea as to Count 2, 1 and
5 Count 2 are accepted. The defendant is found guilty of the
6 offense expressed in each of those counts, first wire fraud
7 conspiracy and mail fraud conspiracy.

8 The defendant is referred to the Probation Department
9 for the preparation of a presentence report. And we will set
10 the sentencing date for January 5, or another convenient date
11 as that date may approach, and here in Port Huron.

12 MR. EPSTEIN: I didn't hear the time.

13 THE COURT: I don't think I announced a time, but it
14 will be 1:30 p.m. Thank you. And of course, you'll get an
15 electronic notice of that in addition to just this statement on
16 the record.

17 Turning to the question of the defendant's bond
18 status, which we discussed on the record at our previous status
19 conference in preparation for today, it is my observation that
20 the case has been reviewed upon my request by Pretrial
21 Services, and that Pretrial Services recommends that there are
22 circumstances or combination of conditions that may reasonably
23 assure the defendant's appearance and the safety of the
24 community. Circumstances, in other words, have changed to a
25 certain extent. And I was favorably impressed with progress

1 that had been made before our last session on the record.

2 It is my view that a \$10,000 unsecured bond may be
3 properly imposed with terms and conditions to be stated.

4 On that fundamental proposition, Mr. Particka, does
5 the Government have any differing view?

6 MR. PARTICKA: We do not object, your Honor.

7 THE COURT: I order the defendant be released on
8 \$10,000 unsecured bond with the following conditions:

9 He shall report as directed to Pretrial Services.

10 He shall reside at the bond address, with any change
11 in residence being pre-approved by the supervising officer
12 before the change takes place.

13 Number three, he shall continue his current active
14 employment. Proof of verification to the supervising officer
15 should be provided as requested.

16 Number four, he may not apply for or enter into any
17 loan or other credit transaction without the previous written
18 clear permission of the Pretrial Services officer.

19 Number five, his travel is restricted to the Eastern
20 District of Michigan.

21 Number six, he is to avoid all contact, directly or
22 indirectly with any person who is or may become a victim or
23 witness in the investigation or the prosecution.

24 Number seven, he shall have no unapproved contact with
25 any co-defendant.

1 Number eight, he shall participate in the location
2 monitoring program and comply with requirements as directed,
3 specifically home detention as directed by Pretrial Services
4 and/or the supervising officer. Essential and discretionary
5 leave may be granted by the Pretrial Services as deemed
6 appropriate.

7 Number nine, he shall submit to location monitoring as
8 required. Location monitoring technology, global positioning
9 system, GPS is recommended. He shall pay all or part of the
10 costs of location monitoring as deemed appropriate by Pretrial
11 Services.

12 Number 10, Defendant is prohibited from operating a
13 motor vehicle without earlier -- acquiring a valid operator's
14 permit allowing him to operate on public highways.

15 Number 11, he is not permitted to possess personal
16 identification information of any other person, even
17 temporarily, and for ostensibly legitimate purposes.

18 And number 12, he is prohibited from using a computer
19 or smart phone unless the device is monitored by Pretrial
20 Services with monitoring software. If he possesses a smart
21 phone, it must be an Android. If he uses a computer or smart
22 phone, he must participate in the computer monitoring program
23 and abide by all rules and requirements of the program.
24 Defendant will be required to allow the installation of
25 monitoring software by Pretrial Services which will require a

1 search of the computer software and hardware. Defendant would
2 be responsible for the cost of computer monitoring and
3 associated software as directed by Pretrial Services.

4 Is there any other term or condition that the
5 Government urges or not, sir?

6 MR. PARTICKA: No, your Honor.

7 THE COURT: Any concerns about any of those things,
8 Mr. Epstein, for you?

9 MR. EPSTEIN: No, your Honor. No objection to the
10 conditions.

11 THE COURT: All right. We'll endorse that and hand it
12 back to the clerk.

13 Anything else for the record, for the Government?

14 MR. PARTICKA: One bit of housekeeping, your Honor.
15 Defendant No. 1, Daeshawn Posey, was by means of clerical error
16 re-included on the caption of the Second Superseding
17 Information. At this time, the Government would move to strike
18 -- well, move to dismiss the Counts 1 and 2 as to Defendant No.
19 1, Mr. Posey from the Second Superseding Information.

20 THE COURT: So ordered.

21 MR. PARTICKA: Thank you.

22 THE COURT: Anything else for the defendant, Mr.
23 Epstein?

24 MR. EPSTEIN: No, your Honor.

25 THE COURT: All right. Court stands in recess.

1 THE CLERK: All rise. Court is in recess.

2 (Proceedings concluded, 11:14 a.m.)

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6 CERTIFICATE OF COURT REPORTER

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8

9 I certify that the foregoing is a correct transcript
10 from the record of proceedings in the above-entitled matter.

11

12 s/Christin E. Russell

August 23, 2022

13 CHRISTIN E. RUSSELL

Date

14 FCRR, RDR, CRR, CSR-5607

15 Federal Official Court Reporter

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